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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/159448

PRELIMINARY RECITALS

Pursuant to a petition filed July 28, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 16, 2014, at Racine, Wisconsin.

The issues for determination are whether the HMO with which Petitioner was previously enrolled must complete dental work started for dentures and whether Petitioner might also be eligible for another dental provider to file prior authorization request filed to have his procedures for dentures completed.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lucy Miller, Nurse Consultant
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. Petitioner was assigned to the United HealthCare HMO in 2013 and through March 2014.
3. A request for dentures was made on behalf of Petitioner in the late fall of 2013. It was approved.

4. Some of Petitioner's teeth were pulled in December 2013 in preparation of his obtaining dentures. At that point began a series of unfortunate events – the dentist to which Petitioner was assigned fell and broke her arm. After the arm healed the dentist worked for a few days but was then on vacation. By the time the dentist returned the lab that was to be used to make the dentures had changed.

As Petitioner indicated that he was no longer enrolled in the United HealthCare HMO and had a Medicaid deductible that had not been met so was not Medicaid eligible at the time of his hearing, efforts were made post hearing and off of the record to verify Petitioner's Medicaid status and to determine see if and how the Division of Hearings and Appeals could order completion of the dental work. Additional information was obtained off the record. That information indicated the following:

5. Petitioner had additional extractions in March 2014. He did lose Medicaid eligibility and HMO eligibility as of April 2014. At that point he did have a deductible and was not Medicaid eligible. This did change in August 2014. Petitioner became eligible for fee-for-service Medicaid and the IRIS or Family Care program. As this decision is written Petitioner is still eligible for fee-for-service Medicaid.

DISCUSSION

The HMO did not complete procedures to provide Petitioner with dentures as it apparently concluded it could not do so once his enrollment last terminated. This is, however, not correct. There is a standard contract between the State of Wisconsin and the HMOs to which Medicaid recipients are assigned. Though I do not have proof that United Healthcare is a signatory to the standard contract it is reasonable to assume that it is. That standard contract contains the following provision:

Article III Functions and Duties of the HMO

...
E. Covered BadgerCare Plus and/or Medicaid SSI Services

...
7. Dental Services

...
b. Dental Services Covered by the HMO Contracted to Provide Dental Care for BadgerCare Plus and Medicaid SSI

...
3) Completion of orthodontic or prosthodontic treatment begun while a member was enrolled in the HMO if the member became ineligible for BadgerCare Plus and/or Medicaid SSI or disenrolled from the HMO, no matter how long the treatment takes. The HMO will not be required to complete orthodontic or prosthodontic treatment on a member who began treatment as a FFS member and who subsequently was enrolled in the HMO.

Contract for BadgerCare Plus and/or Medicaid SSI HMO Services Between The HMO and The Wisconsin Department of Health Services, January 1, 2014 through December 31, 2015;

Article III, E (7)(b)(3);

<https://www.forwardhealth.wi.gov/WIPortal/Tab/42/icscontent/Managed%20Care%20Organization/Providers/providerContracts.htm.spage>

This provision makes clear that HMO must complete procedures necessary to provide Petitioner with dentures regardless of the fact that he had been disenrolled. (I note that prosthodontic treatment means dentures – see Forward Health Online Provider Handbooks.) One could quibble as to the definition of ‘...treatment begun...’ but I do not see a practical or common sense argument that pulling a person's teeth as the initial step in the process of fitting a person with dentures in not ‘...treatment begun...’.

I do want to note that there is a second alternative available to Petitioner. From information obtained after the hearing, Petitioner is currently eligible for fee-for-service Medicaid. He could, therefore, go to any dental provider who accepts Medicaid patients. Admittedly, there does seem to be a shortage of dental providers who accept Medicaid patients. There certainly may be others but there are at least the following in Racine:

- Dr. Margaret Aboagye
400 Lake Ave
Racine WI
(414) 633-0775
- Dr. Heather Campbell
2405 Northwestern Ave
Racine WI
(262) 898-8420

<http://www.medicaiddentistry.com/wisconsin.html>

Petitioner can contact the member services phone number on his Forward Health card and asked if there are other dental providers who accept Medicaid in his neighborhood.

Using the fee for service option with a new provider will, however, require that a new prior authorization be filed as prior authorization approvals are not transferable from provider to provider. *Wis. Admin. Code, §DHS 107.02(3)(g).*

Petitioner should note that individual Medicaid providers not receive copies of Division of Hearings and Appeals decisions. Petitioner must provide a copy of this decision to that provider.

CONCLUSIONS OF LAW

1. That the standard contract between the state of Wisconsin and HMO providers requires that the HMO complete treatment begun for prosthodontics even though Petitioner is no longer enrolled in the HMO.
2. That Petitioner is eligible for fee-for-service Medicaid and has the freedom to seek completion of his prosthodontic treatment via prior authorization with another dental provider of Petitioner's choice who accepts Medicaid patients.

THEREFORE, it is

ORDERED

That this matter is remanded to United HealthCare and/or ForwardHealth with instructions to take steps necessary to provide Petitioner with the services necessary to complete the prosthodontic treatment commence in December 2013. Petitioner should provide a copy of this Decision to his United Healthcare dental provider.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

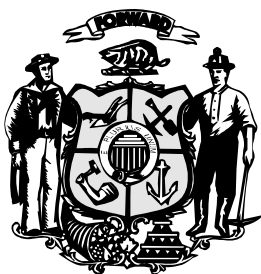
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 8th day of January, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 8, 2015.

Division of Health Care Access and Accountability